

ATTACHMENT TO INTERVIEW OF JANUARY 22, 2009 SN 10/555,221

Examiner has proposed the following Examiner's Amendment for Allowance of the elected claims instead of submitting a Final Rejection based on the amendment to the claims submitted September 02, 2008:

AMENDMENTS:

Claims 7-12 and 13-19 have been cancelled drawn to the non-elected inventions without a proper traversal.

In **Claim 1, line 1**, **delete** "A" and **insert in its place** the following:

----- An encapsulated -----.

In **Claim 1, line 1**, **insert after** "a" **and before** "polyhydroxyalkanoate" the following:

----- mixture of -----.

Applicant reserves the right to divisionals to the non-elected claims. However, Applicant will have the opportunity to submit claims by a 312 amendment in accordance with the following policy for rejoinder which this Examiner had submitted to Applicants in both the restriction and the last office action: ...

"Guidance on Treatment of Product and Process Claims in light of In re Ochiai, In re Brouwer and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder.

The above guidelines also indicate that the non-elected claims have no problems with 35 U.S.C. 112 first or/and second paragraph rejections.

Attorney Jason M. Okun will contact his client for consideration of the above amendment.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to HERBERT J. LILLING whose telephone number is 571-272-0918. The examiner can normally be reached on WORK AT HOME MAXIFLEX.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JON WEBER can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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January 22, 2009

/HERBERT J LILLING/
Primary Examiner Art Unit 1657